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12 ATTORNEYS FOR DEFENDANTS  
13 KUTAK ROCK, LLP AND JOSEPH O. KAVAN

14 **UNITED STATES DISTRICT COURT**  
15 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
16 **SAN JOSE DIVISION**

17 ANITA HUNTER, an individual; et al.,

18 Plaintiffs,

19 v.

20 CITIBANK, N.A., a Nevada corporation; et al.,

21 Defendants.

**CASE NO. 09-CV-02079-JW**

(Related to CASE NO. 07-CV-02795-JW)

Assigned to: Honorable James Ware

**STIPULATION AND [PROPOSED] ORDER  
EXCUSING DEFENDANTS KUTAK ROCK,  
LLP AND JOSEPH O. KAVAN FROM  
RESPONDING TO OR ANSWERING THE  
THIRD AMENDED COMPLAINT**

24 IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel,  
25 that

1 WHEREAS Plaintiffs and Defendants Kutak Rock, LLP and Joseph O. Kavan ("the parties")  
2 have reached a Settlement, have executed a binding term sheet, and are preparing a settlement  
3 agreement;

4 WHEREAS the allegations against Defendants Kutak Rock, LLP and Joseph O. Kavan in the  
5 Third Amended Complaint were included to facilitate the dismissals and releases relating to the  
6 Settlement and to preserve the parties' rights in the event the Settlement is not consummated or  
7 becomes null and void;

8 WHEREAS the causes of action against Defendants Kutak Rock, LLP and Joseph O. Kavan  
9 in the Third Amended Complaint that were dismissed with prejudice by Order of the Court dated  
10 February 3, 2010 (*see* Docket 264), were included in the Third Amended Complaint to preserve  
11 Plaintiffs' right to appeal that Order; AND

12 WHEREAS the Court has previously ordered that Defendants Kutak Rock, LLP and Joseph  
13 O. Kavan are not required to comply with any case deadlines (*see* Docket 368), and that Order  
14 remains in effect,

15 Defendants Kutak Rock, LLP and Joseph O. Kavan are THEREFORE excused from  
16 responding to or answering the Third Amended Complaint. A proposed order is attached.

17  
18 DATED: September 14, 2010

19 By: /s/ Bradley J. Lingo

20 F. JOSEPH WARIN (Appearing *Pro hac vice*)  
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*Attorneys for Defendants Kutak Rock, LLP and  
Joseph O. Kavan*

5 DATED: September 14, 2010

6 By: /s/ Michael P. Denver

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and the Class*

## **ATTESTATION CLAUSE**

I, Bradley J. Lingo, am the ECF User whose ID and password are being used to file this  
STIPULATION AND [PROPOSED] ORDER EXCUSING DEFENDANTS KUTAK ROCK, LLP  
AND JOSEPH O. KAVAN FROM RESPONDING TO OR ANSWERING THE THIRD  
AMENDED COMPLAINT. In compliance with General Order 45, X.B., I hereby attest that Michael  
P. Denver has concurred in this filing.

DATED: September 14, 2010

By: /s/ Bradley J. Lingo

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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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ANITA HUNTER, an individual; et al.,  
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CASE NO. 09-CV-02079-JW

(Related to CASE NO. 07-CV-02795-JW)

Assigned to: Honorable James Ware

PROPOSED ORDER EXCUSING  
DEFENDANTS KUTAK ROCK, LLP AND  
JOSEPH O. KAVAN FROM  
RESPONDING TO OR ANSWERING THE  
THIRD AMENDED COMPLAINT

The Court, after considering the Stipulation Excusing Defendants Kutak Rock, LLP And Joseph O. Kavan From Responding To Or Answering The Third Amended Complaint, hereby **ORDERS** that Defendants Kutak Rock, LLP and Joseph O. Kavan are excused from responding to or answering the Third Amended Complaint.

PURSUANT TO STIPULATION, IT IS SO ORDERED on this 15th day of September 2010.

  
Honorable James Ware  
United States District Judge